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W.P.No.15133 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

Writ Petition No.15133 of 2024 and
W.M.P.Nos.16447 & 16449 of 2024

Abishek Suppliers,
Represented by its Proprietrix,
Mrs.Praveena Rajesh,
No.111/2, Rajiv Nagar M.G.R. 1st street,
Noombal, Chennai-600 077.

.. Petitioner

-VS-

The Commercial Tax Officer,
Vanagaram, Poonamallee Assessment Circle,
No.4/109, Second floor,
Bangalore-Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai-600 123.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent in Reference Number ZD330424119373P / 2018-2019 dated 16.04.2024 and quash the same as arbitrary, illegal.



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For Petitioner : Ms.V.Vijayalakshmi

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For Respondents : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 16.04.2024 is challenged on the ground that the petitioner was unable to upload the reply to the show cause notice. The petitioner received a show cause notice dated 14.12.2023 calling upon the petitioner to explain the disparity between the GSTR 1 statement and the GSTR 3B return. By reply dated 12.01.2024, the petitioner requested for time. According to the petitioner, she could not upload the reply to the show cause notice thereafter.

2. Learned counsel for the petitioner submits that the mismatch occurred because the petitioner inadvertently uploaded only the November and December 2017 transactions in the GSTR 1 statement, whereas the GSTR 3B return recorded all transactions. If provided an opportunity, she submits that the petitioner would be in a position to explain the disparity. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.



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3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that principles of natural justice were complied with by issuing show cause notice dated 14.12.2023 and issuing the impugned order about three months after the petitioner's reply dated 12.01.2024 requesting for one month time.

4. On examining the impugned order, it is evident that the tax proposal, which pertains to the mismatch between the petitioner's GSTR 1 and 3B, was confirmed solely because the tax payer failed to reply to the show cause notice. In the facts and circumstances outlined above, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 16.04.2024 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the



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petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of the petitioner's reply.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

20.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

The Commercial Tax Officer,
Vanagaram, Poonamallee Assessment Circle,
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SENTHILKUMAR RAMAMOORTHY,J

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